

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT FOR THE  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JEROME JAY ISHAM,

14 Defendant.

15 CASE NO. CR18-0199-JCC

16 PROTECTIVE ORDER

17 This matter comes before the Court to on the parties' stipulated motion for a discovery  
18 protective order (Dkt. No. 24). Having considered the motion and the relevant record, the Court  
19 GRANTS the motion and ORDERS that:

20 The discovery materials discussed in the Motion for the Protective Order and referred to  
21 therein as "Protected Material," marked specially as "Protected Material," may be produced to  
22 counsel for Defendant.

23 Possession of Protected Material is limited to the attorneys of record in this case and their  
24 staff, and to any investigators, expert witnesses, and other agents the attorneys of record retained  
25 in connection with this case. The attorneys of record, and their investigators, expert witnesses,  
26 and other agents can review Protected Material with the Defendant. The Defendant can inspect  
27 and review Protected Material, but shall not be allowed to possess, photograph, or record  
28 Protected Material or otherwise retain Protected Material or copies thereof.

1        Defense counsel shall not provide Protected Material or copies thereof to any other  
2 person outside his or her law office, including the Defendant or his family or associates.  
3 Defendant will be permitted to review the Protected Material, consistent with the regulations  
4 established by the Bureau of Prisons for discovery materials subject to a protective order and  
5 designated as protected or sensitive material. Consistent with those rules and regulations,  
6 Defendant will be permitted to review the Protected Material with his counsel or in a controlled  
7 environment at the FDC, but will be prohibited from keeping a copy of the material in his own  
8 possession, printing it out, copying it, or distributing it.

9              The Defendant, defense counsel, and others to whom disclosure of the content of the  
10 Protected Material may be necessary to assist with the preparation of the defense, shall not  
11 disclose the Protected Material or its contents, other than as necessary for the preparation of  
12 defenses at trial and in subsequent appellate proceedings, if necessary. Specifically, the  
13 attorneys of record and members of the defense team acknowledge that providing copies of the  
14 Protected Material to the Defendant and other persons is prohibited, and agree not to duplicate or  
15 provide copies of the Protected Material to the Defendant and other persons. This order does not  
16 limit employees of the United States Attorney's Office for the Western District of Washington  
17 from disclosing the Protected Material to members of the United States Attorney's Office,  
18 federal law enforcement agencies, the Court, or witnesses in order to pursue other investigations  
19 or the prosecution in this case. Nor does it limit employees of the United States Attorney's  
20 Office for the Western District of Washington from disclosing the Protected Material to the  
21 defense as necessary to comply with the Government's discovery obligations.

22              Nothing in this Protective Order prohibits defense counsel from showing the Protected  
23 Material, or reviewing its contents, with the Defendant or with others to whom disclosure may be  
24 necessary to assist with the preparation of the defense at trial and in subsequent appellate  
25 proceedings, if necessary.

26              If counsel for any party finds it necessary to file any documents marked as Protected  
27 Material, the material shall be filed under seal with the Court, along with a motion to seal in  
28 accordance with the Local Rules. Nothing in this Order shall prevent any party from seeking  
modification of this Protective Order or from objecting to discovery that it believes to be

1 otherwise improper. The parties agree that in the event that compliance with this Order makes it  
2 difficult for defense counsel to adhere to their Sixth Amendment obligations, or otherwise  
3 imposes an unworkable burden on counsel, defense counsel shall bring any concerns about the  
4 terms of the Order to the attention of the Government. The parties shall then meet and confer  
5 with the intention of finding a mutually acceptable solution. In the event that the parties cannot  
6 reach such a solution, defense counsel shall have the right to bring any concerns about the scope  
7 or terms of the Order to the attention of the Court by way of a motion.

8 Nothing in this order should be construed as imposing any discovery obligations on the  
9 Government that are different from those imposed by case law and Rule 16 of the Federal Rules  
10 of Criminal Procedure. The failure to designate any materials as provided in paragraph 2 shall  
11 not constitute a waiver of a party's assertion that the materials are covered by this Protective  
Order.

12 This Protective Order does not constitute a ruling on the question of whether any  
13 particular material is properly discoverable or admissible and does not constitute any ruling on  
14 any potential objection to the discoverability of any material.

15 At the conclusion of the case, the Protected Material shall be returned to the United  
16 States, or destroyed, or otherwise stored in a manner to ensure that it is not subsequently  
17 duplicated or disseminated in violation of this Protective Order. The Clerk of the Court is  
18 directed to provide a filed copy of this Protective Order to all counsel of record.

19 DATED this 1st day of February 2019.  
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John C. Coughenour  
UNITED STATES DISTRICT JUDGE